

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6708

BILL NUMBER: SB 168

NOTE PREPARED: Jan 26, 2010

BILL AMENDED:

SUBJECT: Various Ethics and Inspector General Matters.

FIRST AUTHOR: Sen. Charbonneau

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill authorizes the Inspector General to directly institute civil proceedings against persons who have failed to pay civil penalties imposed by the State Ethics Commission.

The bill requires the State Board of Accounts to provide to the Inspector General (in addition to the Attorney General) copies of certain reports concerning: (1) malfeasance, misfeasance, or nonfeasance in office by public officials or employees; (2) fraud or misconduct with respect to public contracts; or (3) unlawful expenditure or diversion of public money.

The bill repeals or deletes provisions in the statutes governing the following quasi-governmental entities that give those entities the option of establishing a code of ethics for their employees or being under the jurisdiction of the State Ethics Commission (the State Ethics Commission statute provides that these entities are "agencies" for purposes of the Commission's jurisdiction): Indiana Finance Authority; Indiana Bond Bank; Public Employees' Retirement Fund; Indiana State Teachers' Retirement Fund; Board for Depositories; Indiana Housing and Community Development Authority; Ports of Indiana; Bureau of Motor Vehicles Commission; Indiana Homeland Security Foundation; Indiana Natural Resources Foundation; Indiana White River State Park Development Commission; State Fair Commission; State Student Assistance Commission; Indiana Grain Indemnity Corporation; Indiana Political Subdivision Risk Management Commission.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Code of Ethics:* This bill repeals provisions that give certain quasi-governmental entities the option of establishing a code of ethics for their employees or being under the jurisdiction of the State Ethics Commission. According to the Office of the Inspector General, these entities

are already observing the code of ethics established by the State Ethics Commission. Thus, this provision should have no fiscal impact on the State Ethics Commission or the Office of the Inspector General.

Explanation of State Revenues: *Civil Proceedings Instituted by the Inspector General:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Background Information - In the event that a civil penalty imposed by the State Ethics Commission under IC 4-2-6-12(1) is not paid by the due date established by the State Ethics Commission, the Office of the Inspector General sends a demand letter to the respective respondent. (The State Ethics Commission generally provides 30-90 days for a respondent to pay a civil penalty.) If the respondent ignores the demand letter, the Office of the Inspector General certifies the case to the Attorney General requesting civil action under IC 4-2-7-6(b).

The Attorney General may elect to file civil action against the respondent. The Office of the Inspector General may eventually file a civil action against the respondent under IC 4-2-7-6(c), but only one year after the case is certified to the Attorney General under IC 4-2-6-7(b). The Office of the Inspector General may also elect to institute forfeiture proceedings under IC 34-24-2 in the appropriate county.

Civil penalties imposed by the State Ethics Commission for FY 2007 to FY 2009 are provided below.

Fiscal Year	Amount of Civil Penalties	Amount Remitted
2007	\$17,000	\$17,000
2008	\$9,051	\$3,357
2009	\$1,000	\$1,000

Explanation of Local Expenditures:

Explanation of Local Revenues: *Civil Proceedings Instituted by the Inspector General:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: State Ethics Commission; Inspector General.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources: Dhiann Kinsworthy-Blye, Office of the Inspector General, 234-4109.

Fiscal Analyst: Jessica Harmon, 232-9854.